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FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Dec 02, 2021

SEAN F. MCAVOY, CLERK

9 UNITED STATES DISTRICT COURT  
10 FOR THE EASTERN DISTRICT OF WASHINGTON

11 UNITED STATES OF AMERICA,

12 Plaintiff,

2:20-CR-00161-SAB

13 v.

Fed. R. Crim. P. 11(c)(1)(C)  
Plea Agreement

14 TYRELL WADE NAULT,

15 Defendant.

16  
17 Plaintiff, United States of America, by and through Vanessa R. Waldref, United  
18 States Attorney for the Eastern District of Washington, and Dominique Juliet Park,  
19 Assistant United States Attorney for the Eastern District of Washington, and  
20 Defendant, TYRELL WADE NAULT, and Defendant's counsel, John Stephen  
21 Roberts, Jr., agree to the following Plea Agreement:

22 1. Guilty Pleas and Maximum Statutory Penalties:

23 The Defendant, pursuant to Fed. R. Crim. P. 11(c)(1)(C), agrees to enter pleas  
24 of guilty to Counts 1 and 2 of the Indictment filed on November 17, 2020, charging  
25 him with Possession with Intent to Distribute a Mixture and Substance Containing  
26 Methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C) and Felon in  
27 Possession of Firearm and Ammunition, in violation of 18 U.S.C. §§ 922(g)(1),  
28 924(a)(2). The Defendant understands that the maximum statutory penalties for the

1 offenses are as follows:

2 Count One, a class C felony, is subject to not more than a 20-year term of  
3 imprisonment; not less than three years of supervised release or more than life; a fine  
4 not to exceed \$1,000,000; and a mandatory \$100 special penalty assessment.

5 Count Two, a class C felony, is subject to not more than a 10-year term of  
6 imprisonment; not more than three years of supervised release; a fine not to exceed  
7 \$250,000; and a mandatory \$100 special penalty assessment.

8 The Defendant understands that a violation of a condition of supervised release  
9 carries an additional penalty of re-imprisonment for all or part of the term of  
10 supervised release without credit for time previously served on post-release  
11 supervision.

12 2. Denial of Federal Benefits:

13 The Defendant understands that by entering his pleas of guilty the Defendant is  
14 no longer eligible for assistance under any state program funded under part A of title  
15 IV of the Social Securities Act (concerning Temporary Assistance for Needy  
16 Families) or benefits under the food stamp program or any state program carried out  
17 under the Food Stamp Act. 21 U.S.C. § 862a. Further, the Court may deny the  
18 Defendant's eligibility to any grant, contract, loan, professional license, or commercial  
19 license provided by an agency of the United States or by appropriated funds of the  
20 United States. 21 U.S.C. § 862.

21 3. The Court is Not a Party to the Plea Agreement:

22 The Court is not a party to the Plea Agreement and may accept or reject it.  
23 Sentencing is a matter solely within the discretion of the Court. The Defendant  
24 understands that the Court is under no obligation to accept any recommendations  
25 made by the United States and/or by the Defendant; that the Court will obtain an  
26 independent report and sentencing recommendation from the U.S. Probation Office;  
27 and that the Court may, in its discretion, impose any sentence it deems appropriate up  
28

1 to the statutory maximum penalties stated in the Plea Agreement. The Defendant  
2 acknowledges that no promises of any type have been made to the Defendant with  
3 respect to the sentence the Court will impose in this matter. The Defendant  
4 understands that the Court is required to consider the applicable sentencing guideline  
5 range, but may depart upward or downward under the appropriate circumstances.

6 The Defendant understands that this is a Plea Agreement pursuant to Fed. R.  
7 Crim. P. 11(c)(1)(C) and that the United States may withdraw from this Plea  
8 Agreement if the Court imposes a lesser sentence than agreed upon. The Defendant  
9 further understands that the Defendant will have the option to withdraw from this Plea  
10 Agreement if the Court imposes a sentence harsher than agreed upon.

11 4. Waiver of Constitutional Rights:

12 The Defendant understands that by entering these pleas of guilty he is  
13 knowingly and voluntarily waiving certain constitutional rights, including:

- 14 (a) The right to a jury trial;
- 15 (b) The right to see, hear and question the witnesses;
- 16 (c) The right to remain silent at trial;
- 17 (d) The right to testify at trial; and
- 18 (e) The right to compel witnesses to testify.

19 While the Defendant is waiving certain constitutional rights, the Defendant  
20 understands that he retains the right to be assisted through the sentencing and any  
21 direct appeal of the conviction and sentence by an attorney, who will be appointed at  
22 no cost if he cannot afford to hire an attorney. The Defendant acknowledges that any  
23 pretrial motions currently pending before the Court are waived.

24 5. Elements of the Offenses:

25 (a) *Count One:*

26 The United States and the Defendant agree that in order to convict the  
27 Defendant of Possession with Intent to Distribute a Mixture or Substance Containing  
28 Methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C), the United States

1 would have to prove beyond a reasonable doubt the following elements:

2 *First*, on or about May 29, 2020, in the Eastern District of Washington, the  
3 Defendant, TYRELL WADE NAULT, knowingly possessed a mixture or  
4 substance containing a detectable amount of methamphetamine, a Schedule  
5 II controlled substance; and

6 *Second*, the Defendant possessed the methamphetamine with the intent to  
7 distribute it to another person.

8 (b) *Count Two*:

9 The United States and the Defendant agree that in order to convict the  
10 Defendant of Felon in Possession of Firearm and Ammunition, in violation of 18  
11 U.S.C. §§ 922(g)(1), 924(a)(2), the United States would have to prove beyond a  
12 reasonable doubt the following elements:

13 *First*, on or about May 29, 2020, in the Eastern District of Washington, the  
14 Defendant, TYRELL WADE NAULT, knowingly possessed a firearm and  
15 ammunition, to wit: a Ruger, model EC9s, 9mm caliber pistol, bearing serial  
16 number 454-75786, and ammunition, to wit: one round of 9mm caliber  
17 ammunition, bearing head stamp “.FC 9MM.LUGER” and five rounds of 9  
18 mm caliber ammunition, bearing head stamp “COR-BON 9mm LUGER  
19 +P”;

20 *Second*, the firearm and ammunition had been shipped or transported  
21 in interstate and/or foreign commerce;

22 *Third*, at the time the Defendant possessed the firearm and  
23 ammunition, the Defendant had been convicted of a crime punishable  
24 by imprisonment for a term exceeding one year; and

25 *Fourth*, at the time the Defendant possessed the firearm or  
26 ammunition, the Defendant knew he had been convicted of a crime  
27 punishable by imprisonment for a term exceeding one year.  
28

1           6.     Statement of Facts:

2           The United States and the Defendant stipulate and agree that the United States  
3 could prove the following facts beyond a reasonable doubt at trial, that these facts are  
4 accurate, and these facts constitute an adequate factual basis for the Defendant's guilty  
5 plea. This statement of facts does not preclude either party from presenting and  
6 arguing, for sentencing purposes, additional facts which are relevant to the guideline  
7 computation or sentencing, unless otherwise prohibited in the Plea Agreement.

8           On May 29, 2020, law enforcement arrested the Defendant, TYRELL WADE  
9 NAULT (hereinafter referred to as the "Defendant"), and his girlfriend as they were  
10 about to get into their vehicle in the parking lot of a hotel in Spokane Valley,  
11 Washington. At the time, they were subject to arrest warrants related to criminal  
12 proceedings in Montana. During a search incident to arrest, law enforcement found  
13 \$1,355 in US currency, a cell phone, a baggie of approximately 32 pills which tested  
14 positive for Oxycodone, and a loaded firearm on the Defendant's person. Law  
15 enforcement later determined through database checks that the firearm was stolen.

16           During a court authorized search of the Defendant's vehicle, law enforcement  
17 found, among other things, a digital scale, \$222 in US currency, a cell phone, and  
18 several baggies containing a white crystalline substance. Law enforcement field  
19 tested the white crystalline substance which tested positive for the presence of  
20 methamphetamine.

21           The Defendant knew at the time of his arrest that he had in his vehicle a  
22 significant amount of methamphetamine, which he intended to distribute at a later  
23 time in exchange for money or other benefits.

24           On March 3, 2021, a forensic chemist with the U.S. Drug Enforcement  
25 Administration Western Regional Laboratory analyzed the methamphetamine found in  
26 the Defendant's vehicle. The chemist concluded that the total amount of actual (pure)  
27 methamphetamine was approximately 81 grams.

1 The firearm and ammunition the Defendant possessed— a Ruger, model EC9s,  
2 9mm caliber pistol, bearing serial number 454-75786, and ammunition, to wit: one  
3 round of 9mm caliber ammunition, bearing head stamp “.FC 9MM.LUGER” and five  
4 rounds of 9 mm caliber ammunition, bearing head stamp “COR-BON 9mm LUGER  
5 +P,” — were examined by Special Agent Michael Northcutt with the Bureau of  
6 Alcohol, Tobacco, Firearms and Explosives. Special Agent Northcutt determined that  
7 the items were manufactured outside the state of Washington.

8 The Defendant agrees and stipulates that at the time he possessed the firearm  
9 and ammunition, he had previously been convicted of multiple offenses that were  
10 punishable by imprisonment for terms exceeding one year. The Defendant further  
11 agrees and stipulates he knew he was prohibited from lawfully possessing firearms  
12 and ammunition based upon this criminal history.

13 7. The United States Agrees:

14 (a) *To Dismiss Charges*

15 At the time of sentencing, the United States agrees to move to dismiss Count 3  
16 of the Indictment, which charges the Defendant with Possession of a Firearm in  
17 Furtherance of a Drug Trafficking Crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i).

18 (b) *Not to File Additional Charges*

19 The United States Attorney’s Office for the Eastern District of Washington  
20 agrees not to bring any additional charges against the Defendant based upon  
21 information in its possession at the time of the Plea Agreement involving illegal  
22 activity charged in the Indictment or related this investigation, unless the Defendant  
23 breaches the Plea Agreement.

24 (c) *Not to File Penalty Enhancement:*

25 The United States agrees not to file a Penalty Enhancement against the  
26 Defendant based upon his two prior qualifying drug conviction.  
27  
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1           8.     United States Sentencing Guideline Calculations:

2           The Defendant understands and acknowledges that the United States Sentencing  
3 Guidelines (hereinafter “USSG”) are applicable to this case and that the Court will  
4 determine the Defendant’s applicable sentencing guideline range at the time of  
5 sentencing.

6           (a)    *Count One:*

7                   (i)    *Base Offense Level and Application of Relevant Conduct:*

8           The United States and the Defendant stipulate and agree that there was 81  
9 grams of actual or pure methamphetamine seized in this case and that amount properly  
10 reflects the application of relevant conduct. Therefore, the parties stipulate and agree  
11 that the **base offense level is 30** pursuant to USSG § 2D1.1(a)(5).<sup>1</sup>

12                   (ii)   *Specific Offense Characteristics:*

13           The United States and the Defendant stipulate and agree that, because the  
14 Defendant possessed a firearm, a **2-level** increase applies, pursuant to USSG §  
15 2D1.1(b).

16           (b)    *Count Two:*

17                   (i)    *Base Offense Level:*

18           The United States will recommend that the **base offense level is 20** pursuant to  
19 USSG § 2K2.1(a)(4) because the instant offense was committed after sustaining one  
20 felony controlled substance conviction.

21                   (ii)   *Specific Offense Characteristics:*

22  
23  
24  
25           <sup>1</sup> The parties further agree and stipulate that if the Court were to convert the varying  
26 amounts and types of controlled substances as directed by the Guidelines pursuant to  
27 this section, the resulting offense level would remain the same. The Defendant may  
28 argue at sentencing that a disparity exists based on the purity of methamphetamine  
versus a mixture of methamphetamine in support of his argument for a 120 month  
term of imprisonment.

1 The United States and the Defendant stipulate and agree that, because the  
2 Defendant possessed a stolen firearm, a **2-level** increase applies, pursuant to USSG §  
3 2K2.1(b)(4)(A).

4 The United States and the Defendant stipulate and agree that, because the  
5 Defendant possessed the firearm in connection with another felony offense, a **4-level**  
6 increase applies, pursuant to USSG § 2K2.1(b)(6)(B).

7 (c) *Multiple Counts:*

8 Pursuant to USSG §3D 1.2, the United States and the Defendant agree that  
9 Counts 1 and 2 are to be grouped.

10 (d) *Acceptance of Responsibility:*

11 If the Defendant pleads guilty and demonstrates a recognition and an  
12 affirmative acceptance of personal responsibility for the criminal conduct; provides  
13 complete and accurate information during the sentencing process; does not commit  
14 any obstructive conduct; accepts this Agreement; and enters pleas of guilty **no later**  
15 **than the Pre-Trial conference**; the United States will move for a three (3)-level  
16 downward adjustment in the offense level for the Defendant's timely acceptance of  
17 responsibility, pursuant to USSG §3E1.1(a) and (b).

18 The Defendant and the United States agree that the United States may at its  
19 option and upon written notice to the Defendant, not recommend a three (3)-level  
20 reduction for acceptance of responsibility if, prior to the imposition of sentence, the  
21 Defendant is charged or convicted of any criminal offense whatsoever.

22 (e) *Criminal History:*

23 The United States and the Defendant have made no agreement and make no  
24 representations as to the Defendant's Criminal History Category, which shall be  
25 determined by the Court at sentencing after review of the Presentence Investigation  
26 Report.

1           9.     Departures:

2           There are no aggravating or mitigating factors with respect to the correct  
3 calculation of the Sentencing Guidelines. The United States and the Defendant  
4 stipulate and agree that neither party will seek an upward or a downward departure  
5 from the applicable Guidelines, unless one is necessary to effectuate the terms of the  
6 Plea Agreement; if this is the case, the parties waive any objection to such a departure.

7           10.    Length of Incarceration:

8           Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the Defendant and the United States  
9 agree that a sentencing range of 120-151 months is an appropriate disposition of this  
10 case. The United States will recommend a sentence of 151 months and the Defendant  
11 will recommend a sentence of 120 months. The Defendant may recommend that the  
12 sentence imposed by the Court run concurrently to any resultant imprisonment  
13 stemming from pending probation violations in Montana Case Nos. DC-17-32 (Hill  
14 County, Montana), DC-17-128 (Hill County, Montana) and DC-19-001 (Hill County,  
15 Montana).

16           If the Court rejects the Plea Agreement pursuant to Fed. R. Crim. P. 11(c)(5),  
17 the Defendant and the United States agree that they each may withdraw from the Plea  
18 Agreement. If the Defendant withdraws from the Plea Agreement, the Defendant may  
19 withdraw his pleas of guilty. If the United States withdraws from the Plea Agreement,  
20 the United States may prosecute the Defendant for any and all criminal conduct  
21 involving or relating to the underlying facts and circumstances of this case.

22           11.    Criminal Fine:

23           The United States and the Defendant agree to recommend the Court impose no  
24 criminal fine.

25           12.    Supervised Release:

26           The United States and the Defendant agree to jointly recommend that the Court  
27 impose a three-year term of supervised release as to Counts 1 and 2, to include the  
28

1 following special conditions, in addition to the standard conditions of supervised  
2 release:

3 (a) Defendant shall participate and complete such drug and alcohol  
4 testing and drug and alcohol treatment programs as the Probation Officer directs; and

5 (b) Defendant's person, residence, office, vehicle, and belongings are  
6 subject to search at the direction of the Probation Officer.

7 13. Mandatory Special Penalty Assessment:

8 The Defendant agrees to pay the \$200 mandatory special assessment to the  
9 Clerk of Court for the Eastern District of Washington, pursuant to 18 U.S.C. § 3013,  
10 and shall provide a receipt from the Clerk to the United States as proof of this  
11 payment.

12 14. Payments While Incarcerated:

13 If the Defendant lacks the financial resources to pay the monetary obligations  
14 imposed by the Court, the Defendant agrees to earn the money to pay toward these  
15 obligations by participating in the Bureau of Prisons' Inmate Financial Responsibility  
16 Program if the Court sentences the Defendant to a term of incarceration.

17 15. Additional Violations of Law Can Void Agreement:

18 The Defendant and the United States agree that the United States may at its  
19 option and upon written notice to the Defendant, withdraw from this Plea Agreement  
20 or modify its recommendation for sentence if, prior to the imposition of sentence, the  
21 Defendant is charged or convicted of any criminal offense whatsoever.

22 16. Waiver of Appeal and Collateral Attack Rights:

23 In return for the concessions that the United States has made in this Plea  
24 Agreement, the Defendant agrees to waive his right to appeal the convictions and  
25 sentence if the Court imposes a term of imprisonment pursuant to the terms of this  
26 Rule 11(c)(1)(C) plea agreement.<sup>2</sup>

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27  
28 <sup>2</sup> The Defendant retains the right of appeal if the Court imposes a sentence greater  
than 151 months of imprisonment.

1 If the Court sentences the Defendant outside the Rule 11(c)(1)(C) and the  
2 Defendant chooses *not* to withdraw the following applies: the Defendant agrees to  
3 waive his right to appeal the conviction and sentence if the Court imposes a prison  
4 term no higher than the high end of the applicable guideline range as determined by  
5 the Court and imposes no more than 3 years supervised release. If the Court imposes  
6 a sentence higher than the high end of the applicable guideline range and/or greater  
7 than 3 years of supervised release, the Defendant may appeal only the substantive  
8 reasonableness of his sentence.

9 The Defendant further expressly, waives his right to file any post-conviction  
10 motion attacking his conviction and sentence, including a motion pursuant to 28  
11 U.S.C. § 2255, except one based upon ineffective assistance of counsel, based on  
12 information not now known by Defendant and which, in the exercise of due diligence,  
13 could not be known by Defendant by the time the Court imposes the sentence. Should  
14 the Defendant successfully move to withdraw from this Plea Agreement or should the  
15 Defendant's conviction on the Indictment be dismissed, set aside, vacated, or  
16 reversed, this Plea Agreement shall become null and void; the United States may  
17 move to reinstate the Indictment; and the United States may prosecute the Defendant  
18 on all available charges involving or arising from his participation in criminal conduct  
19 under federal law. Nothing in this Plea Agreement shall preclude the United States  
20 from opposing any post-conviction motion for a reduction of sentence or other attack  
21 of the conviction or sentence, including, but not limited to, proceedings pursuant to 28  
22 U.S.C. § 2255 (writ of habeas corpus).

23 17. Integration Clause:

24 The United States and the Defendant acknowledge that this document  
25 constitutes the entire Plea Agreement between the United States and the Defendant,  
26 and no other promises, agreements, or conditions exist between the United States and  
27 the Defendant concerning the resolution of the case. This Plea Agreement is binding  
28 only upon the United States Attorney's Office for the Eastern District of Washington,

1 and cannot bind other federal, state or local authorities. The United States and the  
2 Defendant agree that this agreement cannot be modified except in a writing that is  
3 signed by the United States and the Defendant.

4 Approvals and Signatures

5 Agreed and submitted on behalf of the United States Attorney's Office for the  
6 Eastern District of Washington.

7  
8 Vanessa R. Waldref  
9 United States Attorney

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December 1, 2021

11 \_\_\_\_\_  
12 Dominique Juliet Park  
Assistant U.S. Attorney

\_\_\_\_\_  
Date

13 I have read this Plea Agreement and have carefully reviewed and discussed  
14 every part of the agreement with my attorney. I understand and voluntarily enter into  
15 this. Furthermore, I have consulted with my attorney about my rights, I understand  
16 those rights, and I am satisfied with the representation of my attorney in this case. No  
17 other promises or inducements have been made to me, other than those contained in  
18 this Plea Agreement, and no one has threatened or forced me in any way to enter into  
19 this Plea Agreement. I am agreeing to plead guilty because I am guilty.

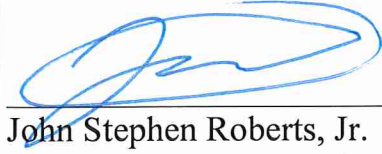
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23 \_\_\_\_\_  
24 TYRELL WADE NAULT  
Defendant

12-2-21  
\_\_\_\_\_  
Date

25 I have read the Plea Agreement and have discussed the contents of the Plea  
26 Agreement with the Defendant. The Plea Agreement accurately and completely sets  
27 forth the entirety of the agreement between the parties. I concur in Defendant's decision  
28 to plead guilty as set forth in the Plea Agreement. There is no legal reason

1 why the Court should not accept the Defendant's plea of guilty.

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5 John Stephen Roberts, Jr.  
6 Attorney for the Defendant  
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